



and sold by Defendant GRACO CHILDREN'S PRODUCTS INC., which contained an allegedly defective latching system designed, manufactured, marketed and sold by Defendant INDIANA MILLS & MANUFACTURING, INC.

4. This matter is currently set for trial on January 11, 2021. This is the parties third agreed motion for continuance.

**II.  
THE PARTIES NEED TO EXTEND DEADLINE FOR PARTIES TO DESIGNATE  
EXPERTS AND RESULTING NEED FOR A TRIAL CONTINUANCE**

5. The current deadline for Plaintiff, or the party with the burden of proof, to designate expert witnesses and expert opinions as required under Federal Rule of Civil Procedure 26(a)(2) is July 13, 2020.

6. The current deadline for Defendants, or the party without the burden of proof, to designate expert witnesses and expert opinions as required under Federal Rule of Civil Procedure 26(a)(2) is August 10, 2020.

7. The parties had been working diligently to complete fact discovery and to be in a position to designate experts by the current expert deadlines so that all discovery could be completed in advance of the January 11, 2021 trial date. The national and state emergencies surrounding the continued spread of COVID-19, however, have substantially increased the difficulties of completing discovery and have prevented the parties from completing discovery in accordance with the current deadlines and trial date. At the outset of the COVID-19 pandemic, for example, the parties were working to schedule the depositions of certain of E.V.'s treating physicians, which the parties were scheduling to occur in late-March or early-April. In light of the significant demand placed on healthcare providers as a result of the pandemic and resulting hospitalizations, and the resulting uncertainty in those treaters' potential availability, the parties postponed

those depositions. Additionally, travel restrictions imposed by the pandemic, as well as the institution of various social distancing recommendations and orders, made it difficult to schedule further inspections and testing by the parties' experts.

8. In addition to the foregoing difficulties and delays imposed by the COVID-19 pandemic and corresponding public health recommendations and orders, the written discovery phase of this case including document production and document review related to the liability aspects of this case have taken longer than the parties expected or planned in light of the significant volume and complexity of material that has been produced to-date. For example, Graco has responded to Plaintiff's written discovery requests and, in connection therewith, has produced thousands of pages of documents and materials to Plaintiff. Graco's most recent production was made on January 21, 2020, and Plaintiff's experts are still in the process of reviewing and digesting the large volume of materials Graco has produced.

9. Upon completion of that analysis, Plaintiff anticipates scheduling the deposition of Graco Children's Products Inc.'s corporate representative(s) in the next 60-90 days to further explore the documentary evidence produced by Graco as it relates to Plaintiff's theories of liability and causation.

10. Despite the foregoing difficulties, including those imposed by the COVID-19 pandemic and corresponding public health restrictions, the parties have been working diligently and cooperatively toward the completion of discovery. The parties have continued scheduling depositions to occur remotely so as to move discovery forward notwithstanding the restrictions imposed by COVID-19. For example, the parties took the virtual deposition of one of E.V.'s treating physicians on July 1, 2020 and are working to schedule the remaining treating physicians in the coming weeks. To date, several

depositions have been taken, including the deposition of Plaintiff and her husband (father of Minor E.V.), the EMS first responders and scene witnesses, as well as several of E.V.'s treating physicians..

11. Despite the parties' diligent efforts, and in light of the complexity and volume issues implicated by Plaintiff's claims and the unanticipated difficulties imposed by the COVID-19 pandemic, there remains substantial additional discovery to be completed before expert discovery can begin. As a result, the parties believe that a modest extension of the current scheduling order is warranted. Extending the parties' expert disclosure deadlines will also impact certain other operative deadlines, including the discovery deadline, and the trial date.

12. Accordingly, as set forth herein, in light of the additional time that the parties agree is necessary to complete required discovery, the parties respectfully request the Court extend the current deadlines by 180 days and to reset this case for trial not earlier than September 8, 2021. In connection therewith, the parties respectfully suggest the following proposed amended discovery schedule:

- a. Plaintiff's expert disclosures due by January 11, 2021
- b. Defendants' expert disclosures due by February 8, 2021
- c. Discovery close on March 8, 2021
- e. Motions deadline of April 5, 2021.
- d. Trial be set not earlier than September 8, 2021

13. This motion is not filed for delay but is being filed in the interests of justice so that discovery can be completed.

WHEREFORE PREMISES CONSIDERED, Plaintiff and Defendants respectfully requests that this Court grant their Agreed Motion for Trial Continuance and Motion to

Extend Discovery Deadlines, that this case be removed from the Court's trial docket for January 11, 2021 and be reset for trial for some time after September 8, 2021, that a new Scheduling Order be entered and allow Plaintiff to timely designate experts by January 11, 2021, allow Defendants to timely designate experts by February 8, 2021, allow parties until March 8, 2021 to complete discovery, and set a motion deadline of April 5, 2021, in addition to all other relief to which Plaintiff and Defendants may be justly entitled.

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